



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEC 20 2000

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Joseph Kehoe
Commissioner, Small Business/Self-Employed Division

SUBJECT:

Draft Audit Report - The Internal Revenue Service Does Not Effectively Use the Trust Fund Recovery Penalty as a Collection Enforcement Tool

Thank you for the opportunity to respond to your draft report, "The Internal Revenue Service Does Not Effectively Use the Trust Fund Recovery Penalty as a Collection Enforcement Tool." The report reviews the effectiveness of our use of the Trust Fund Recovery Program (TFRP) as an enforcement tool.

I agree, trust fund liabilities are one of the field function's highest priorities and I appreciate your recommendations. We are working on the necessary corrective actions to meet the recommendations. We are also continuing our efforts to improve the Automated Trust Fund Recovery (ATFR) System. These changes will enhance the effectiveness of the TFRP as an enforcement tool.

Our comments on the recommendations in this report are as follows

IDENTITY OF RECOMMENDATION 1

Reassess the time frames for making the TFRP decision. If six months is the appropriate period, the importance for timely use of this collection tool should be reinforced

ASSESSMENT OF CAUSE

In 58 (91 percent) of the 64 cases, the field function did not properly complete the investigative process or assess the penalty when appropriate.

CORRECTIVE ACTION

We will ensure area directors and territory managers are assessing the penalty within established timeframes. We will also review the timeframes for making the TFRP decision.

IMPLEMENTATION DATE

October 1, 2001

RESPONSIBLE OFFICIAL
Director, Compliance Policy

CORRECTIVE ACTION MONITORING PLAN

The Office of Filing and Payment Compliance will monitor the corrective action and will keep the Director, Compliance Policy, informed of any delays or changes.

IDENTITY OF RECOMMENDATION 2

Clarify instructions for accepting installment agreements and assessing the TFRP on repeater cases.

ASSESSMENT OF CAUSE

1. The Internal Revenue Manual (IRM) did not provide clear instruction regarding granting installment agreements to taxpayers classified as "repeater" taxpayers.
2. The IRM did not provide clear guidelines on the assessment of TFRPs for taxpayers with installment agreements.
3. The IRM did not provide clear instruction on whether taxpayers with installment agreements should still be considered "repeater" taxpayers.

CORRECTIVE ACTIONS

1. We will revise IRM 5.7.8 to provide instruction that installment agreements should not be granted to taxpayers that are currently repeater taxpayers. Installment agreements may be granted only if taxpayers no longer fit the definition of a repeater taxpayer. We then consider the taxpayer an installment agreement taxpayer, and all procedures applicable to installment agreement taxpayers apply.
2. The Assistant Commissioner (Collection) issued a memorandum June 6, 2000, giving clear guidelines for TFRP assessment determinations for taxpayers with in-business trust fund installment agreements.

IMPLEMENTATION DATE

January 1, 2001 (for IRM 5.7.8 publication)

RESPONSIBLE OFFICIAL
Director, Compliance Policy

CORRECTIVE ACTION MONITORING PLAN

The Office of Filing and Payment Compliance will inform the Director, Compliance Policy, of the status and any delays.

RECOMMENDATION 3

Reinforce the need for group managers to review repeater trust fund cases and consider the timely use of the TFRP.

ASSESSMENT OF CAUSE

When we do not make assessments within established timeframes against responsible officers, the financial ability of the officers could deteriorate, thereby decreasing the IRS's chances to collect the taxes due.

CORRECTIVE ACTION

In the Automated Trust Fund Recovery Penalty Program (ATFRP), the group managers will have easy access to cases. They will have the ability to set up controls and to determine when the TFRP assessment should be assessed.

IMPLEMENTATION DATE

December 1, 2001

RESPONSIBLE OFFICIAL

Director, Compliance Policy

CORRECTIVE ACTION MONITORING PLAN

The Office of Filing and Payment Compliance will advise the Director, Compliance Policy, of the status and any delays.

RECOMMENDATION 4

Reinforce to group managers the need to assert the penalty against all applicable responsible officers.

ASSESSMENT OF CAUSE

We reviewed 18 cases in which a penalty had been assessed. However, in three of those cases we did not assess the penalty correctly against all responsible officers. In one instance, the officer received a refund on his/her personal tax return.

CORRECTIVE ACTION

The Office of Filing and Payment Compliance will give additional guidance to area directors where necessary to ensure proper assertion of the penalty.

IMPLEMENTATION DATE

December 1, 2001

RESPONSIBLE OFFICIAL

Director, Compliance Policy

CORRECTIVE ACTION MONITORING PLAN

The Office of Filing and Payment Compliance will inform the Director, Compliance Policy, of the status and any delays.

RECOMMENDATION 5

Make programming changes to the ATFRP to ensure delinquent returns are addressed in TFRP calculations. These changes could include inserting logic provisions in the form used to calculate the TFRP.

ASSESSMENT OF CAUSE

We do not adequately consider delinquent returns in the TFRP process.

CORRECTIVE ACTION

The Office of Filing and Payment Compliance will add logic provisions to the computer programming to address all delinquent returns in future enhancements to the ATFRP.

IMPLEMENTATION DATE

December 1, 2001

RESPONSIBLE OFFICIAL

Director, Compliance Policy

CORRECTIVE ACTION MONITORING PLAN

The Office of Filing and Payment Compliance will inform the Director, Compliance Policy, of the status and any delays.

If you have any questions, please call Frank Nixon, Acting Director, Compliance Policy, at (202) 622-5563.